

of the partnership shall be taken into account by such partners pro rata in accordance with their respective distributive shares of such partnership income for the partnership's taxable year and allocated to this State.

A partnership (including a limited liability company that has elected partnership treatment) is, by definition, a nonresident, and so would apply this section to income it receives from a partnership. See Section 1501(a)(14), (16) and (20) of the IITA. From your letter, it appears that xxxxxxxxxxxxxxxx xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx is requesting to determine its Illinois net income in accordance with this section. If that is the case, no petition under Section 304(f) of the IITA is necessary.

If xx is requesting some other method of apportioning its income from partnerships, we will need additional information from you. Section 304(f) of the IITA provides:

If the allocation and apportionment provisions of subsections (a) through (e) and of subsection (h) do not fairly represent the extent of a person's business activity in this State, the person may petition for, or the Director may require, in respect of all or any part of the person's business activity, if reasonable:

- (1) Separate accounting;
- (2) The exclusion of any one or more factors;
- (3) The inclusion of one or more additional factors which will fairly represent the person's business activities in this State; or
- (4) The employment of any other method to effectuate an equitable allocation and apportionment of the person's business income.

Taxpayers who wish to use an alternative method of apportionment under this provision are required to file a petition complying with the requirements of 86 Ill. Adm. Code Section 100.3390, which may be found on the Department's web site at www.revenue.state.il.us.

Your request does not indicate in what manner the apportionment formula required under Section 304 of the IITA fail to fairly represent the extent of the business activities of xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx xxxxxxxxxxxxxxxx in Illinois, or how the separate accounting you request does fairly represent the extent of its business activities in Illinois.

Please note that 86 Ill. Adm. Code Section 100.3390(e)(1) requires a petition to be filed at least 120 days prior to the due date (including extensions) for the first return for which permission is sought to use the alternative apportionment method. A petition filed May 2, 2001 will allow a taxpayer to use the requested method on original returns due on or after August 30, 2001, if granted.

As stated above, this is a general information letter which does not constitute a statement of policy that applies, interprets or prescribes the tax laws, and it is not binding on the Department. If you still believe that your petition should be granted, please supplement the petition in accordance with the

IT 01-0050-GIL

June 18, 2001

Page 3

provisions of 86 Ill. Adm. Code Section 100.3390. If you have any questions, you may contact me at (217) 782-7055.

Sincerely,

Paul S. Caselton
Deputy General Counsel -- Income Tax